

WEST VIRGINIA INFORMATIONAL LETTER
INSURANCE COMMISSIONER

No. 7-B
March, 1974

PAYMENT OF COMMISSIONS

This Informational Letter is intended to further supplement and largely supersede the Insurance Commissioners previous Informational Letters on this subject under dates of May 9, 1973, and June 8, 1973. Reference should be made to those Informational Letters for a thorough understanding of the predicate for this Informational Letter.

Briefly, Informational Letter No. 7 (issued May 9, 1973) set forth the provisions of W. Va. Code 33-12-24 concerning commission sharing; made the observation that those provisions were to be strictly enforced; and served notice that all persons affected by the Informational Letter would have until July 1, 1973, to fully comply with the provisions of the said Code Section.

A Supplement to Informational Letter No. 7 (issued on June 8, 1973) extended the aforementioned July 1, 1973, compliance deadline to April 1, 1974, in response to a recognition that insurers and agents were encountering complex problems which would make it difficult to meet the July 1, 1973, deadline.

By a recent legislative enactment, made effective from its passage on March 2, 1974, the provisions of Code 33-12-24 have been modified to the effect that, under certain conditions, a West Virginia licensed resident agent may now pay his commissions, or direct that his commissions be paid, to a partnership of which he is a member, employee or agent, or to a corporation of which he is an officer, employee or agent.

Under the provisions of the newly amended Code 33-12-24, such commission sharing arrangements may only be permitted if:

- (1) The commissioner finds that such partnership or corporation is engaged, through its licensed resident agents, in conducting an insurance agency business with respect to the general public.
- (2) If a partnership, each partner satisfies the commissioner that he meets the licensing qualifications set forth in Code 33-12-2.
- (3) If a corporation, each officer, employee or any one or more stockholders owning, directly or indirectly, the controlling interest in such corporation satisfies the commissioner that he meets the licensing qualifications set forth in Code 33-12-2.

In view of the above changes, the previously stated April 1, 1974, deadline for compliance with Informational Letter No. 7 is hereby declared to be withdrawn.

As necessary, the Insurance Commissioner will cause to be examined the records of insurers and agents to determine whether there is proper compliance with the provisions of Code 33-12-24 (as amended effective March 2, 1974).

For a complete statutory treatment of the subject of payment of commissions in West Virginia direct reference should be made to the provisions of Code 33-12-24, as amended. This Informational Letter is intended to clarify only a portion of that Section, and does not embrace within its scope the entire subject of commission payments.

This Informational Letter shall not apply to reinsurance, life insurance, accident or health insurance, or other insurance specifically exempted under Subsection (c) of Code 33-12-24.

Samuel H. Weese
Insurance Commissioner